AGREED RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 580.

THE UNITED STATES, APPELLANT,

vs.

THE FISHING SMACK "PODER DE DIOS," JULIAN PENGOCHEA ET AL., CLAIMANTS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

FILED JANUARY 31, 1903.
(18808.)

3611

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a In the Supreme Court of the United States. October term, 1902.

THE UNITED STATES, APPELLANT,
v.
THE FISHING SMACK "PODER DE DIOS," JULIAN Bengochea et al., claimants. } No. 580.

Stipulation as to record.

It is hereby stipulated that the portions of the record which are formal and common to the records in all the "fishing-smack" cases, being set out at length in the "Paquete Habana" and "Lola" records, shall not be printed, and that the following portions only of the record herein shall be printed, viz:

"Statement of proceeds," p. 29; "testimony in Havana," being claimants' testimony in full, pp. 39–47, inclusive; the following portion of "testimony in Jacksonville," being an extract from the testimony of J. F. Horr, a Government witness, viz, beginning at the middle of p. 53 and extending to the end of the first three lines on p. 54; the following portions of the "testimony in Key West," viz, an extract
b from the testimony of W. D. Cash, a Government witness, beginning at the middle of p. 70 and extending to the subheading "Cross-examination" on p. 72; an extract from the testimony of W. B. Curry, a Government witness, beginning with the question, "Were you a member of the firm of Cash & Curry?" on p. 87, and extending to the end of the redirect examination of said witness, on p. 89; the "commissioner's findings," on p. 98; the last paragraph of the final decree of the court below, on p. 111.

It is also understood and agreed that, respecting the parts of the record omitted, counsel are at liberty to refer to the identical or similar portions of the records in the cases of the "Paquete Habana" and "Lola."

Washington, March 3, 1903.

HENRY M. HOYT,
Assistant Attorney-General.
J. PARKER KIRTEN,
Proctors for Claimants.

c (Indorsed:) Supreme Court of the United States. The United States, appellant, *v.* The fishing smack "Poder de Dios," Julian Bengochea et al., claimants. Stipulation as to record.

d (Indorsed:) File No. 18808. Supreme Court U. S., October term, 1902. Term No. 580. The United States, appellant, *vs.* The fishing smack "Poder de Dios," &c. Stipulation to omit parts of record in printing. Filed March 5th, 1903.

29 District court of the United States, southern district of Florida.

Spanish sch. "Poder de Dios." Prize No. 23.

Clerk's statement.

Proceeds of sale deposited		$1,010.00
Paid fees, prize commissioners, & expenses	$37.22	
" " clerk	40.90	
" " marshal, and expenses	276.79	
		349.91
Paid claimant under decree April 5th, 1900		$660.09

Respectfully submitted.

E. O. LOCKE, *Clerk.*

Apr. 16, 1900.

(Endorsed:) No. 23. United States vs. "Poder de Dios." Clerk's statement. Filed Apr. 16, 1900. E. O. Locke, clerk.

39 In the district court of the United States for the southern district of Florida.

UNITED STATES
vs.
"PODER DE DIOS," JOSE BENGOCHEA, claimant. } Prize.

By virtue of a commission from the honorable the district court of the fifth circuit of the United States, southern district of Florida, to me directed, I have caused Jose Bengochea, Juan Lluria y Pujadas, Francisco Gandon, and Antonio Suarez, the witnesses in the said commission named, personally to come before me, who, having been duly sworn true answer to make to all and singular the direct and cross interrogatories to said commission attached, depose and answer as follows:

I. To the first interrogatory the said Jose Bengochea answers and says as follows:

My name is Jose Bengochea; I am 29 years of age, and am a merchant doing business at No. 2 San Pedro St., in partnership with my uncle, Julian Bengochea. I resided at the same place during the months of April and May, 1898.

II. To the second interrogatory he answers and says:

The owners of the fishing smack "Poder de Dios" were at that time my uncle, Julian Bengochea, and Francisco Gonzales; the value of the vessel was $6,500 Spanish gold; the vessel cost $4,000 in 1896, when purchased by my uncle and his partner, and about $2,500 was expended upon her for repairs and improvements.

40 III. To the third interrogatory he answers and says:

The usual earnings of this vessel were estimated at 19 to 21 per cent on the capital invested in her; ascertained by the annual balance made of her business when liquidation of her earnings was made. This is the only means that I had of ascertaining regarding her earnings.

IV. To the fourth interrogatory he answers and says:

Yes; Mr. Ramon Alvarez, of Key West, is the agent and attorney in fact of the owners of said vessel.

V. To the fifth interrogatory he answers and says:

I have nothing to add.

Cross-interrogatories:

I. X. To the first cross-interrogatory he answers and says:

I have known the "Poder de Dios" only since the time of her purchase by my uncle and his partner interested in her. I think her net tonnage is 51 tons. I do not know the gross tonnage, nor when she was built. I believe, however, she was built in Nassau, N. P.

II. X. To the second cross-interrogatory he answers and says:

The vessel was purchased in Havana on October 13 97, from Don Antonio Carballo, through his attorney, Jose Carballo, by my uncle, Julian Bengochea, and Francisco Gonzales. The said Jose Carballo resides in Havana.

III. X. To the third cross-interrogatory he answers and says:

The amount paid was $4,000 Spanish gold in cash, being for his own and his partner's share. I present to the commissioner the original notarial certified copy of the deed or bill of sales, to have a copy made of certain parts of same relative to this vessel, then called and registered as "Gran Poder," and of the endorsement of the record of her
41 register at the office of the captain of the port under the name of "Poder de Dios," dated Dec. 31, 1897, Exhibit A.

IV. X. To the fourth cross-interrogatory he answers and says:

She was engaged in the fishing business from the time purchased until captured.

V. X. To the fifth cross-interrogatory he answers and says:

She was never engaged in any other business.

VI. X. To the sixth cross-interrogatory he answers and says:

The seamen received a percentage of the earnings of the vessel, thus calculated: From the gross receipts of the cargo of live fish 75 cents per quintal for "cherna" and $1 per quintal for "pargo" or red grouper, was first deducted as an allowance to the vessel for expenses, etc., and then two-thirds of the remainder went to the seamen, the other one-third to the vessel.

VII. X. To the seventh cross-interrogatory he answers and says:

The trips of this vessel are calculated to have been about 13 trips annually. All the data respecting the dates of her departure and entry, the quantity of fish captured on each trip, the amount realized therefrom, and the proportionate shares of same that went to the vessel and the seamen, were all kept in the books and accounts made by the firm or company of Domingo Trocha & Co.

VIII. X. To the eighth cross-interrogatory he answers and says:

No books were kept by us, because each trip was liquidated for at the time, and any memorandum, if made, destroyed.

IX. X. To the ninth cross-interrogatory he answers and says:

The name of the master at that time was Marcus Ojeda. He is now in command of the schooner "Puerto de la Orotava," in this port. The names of the seamen who have been engaged on the "Poder de Dios"

I do not know, but they are on the rolls or crew lists of the vessel which have been filed at the court in Jacksonville, Fla.

X. X. To the tenth cross-interrogatory he answers and says:

Yes, to the amount of $2,500, shortly after her purchase as previously mentioned. They were made at the shipyard of Geferino Miranda, in Regla, but I can not particularize the exact dates or amount. The gross amount is as stated.

And further this deponent sayeth not.

JOSE BENGOCHEA.

Answered under oath and subscribed before me at Havana this 28 day of August, 1900.

JOSEPH A. SPRINGER,
Commissioner.

43 JUAN LLURIA Y PUJADAS.

I. To the first interrogatory the said Juan Lluria Pujadas answers and says as follows:

My name is Juan Lluria y Pujadas; I am 75 years of age; reside at Regla, No. 2 Botes St., and am a shipwright, a master ship carpenter and builder by occupation. I am also maestro mayor de bahia or harbor master of this port. At the time mentioned—April and May, 1898—and prior thereto, I resided at the same place and with the same business.

II. To the second interrogatory he answers and says:

The position of maestro mayor de bahia del puerto de la Habana, or harbor master of the port of Havana, was an official position under the Spanish Government, to which I was appointed in 1897, having served as suplente or deputy for about thirty years. It was my duty by virtue of my position to inspect and examine and value all vessels that entered the harbor of Havana, and especially all vessels that made repairs in this port. I have inspected and valued the fishing smack "Poder de Dios" to be worth on the first of March, 1898, $6,500 Spanish gold, basing my appraisement of said vessel upon her special conditions and my constant inspection of vessels of her class, as appears in my certificate of inspection and appraisement of a number of such vessels made at the request of Messrs. Vilar, Senra & Co., Bengochea & Co., and filed with my declaration in the case of "Antonio y Paco" and marked "Exhibit A," to which I refer, and of which I now produce a copy (translated) of the part thereof referring to the "Poder de Dios," to be filed for convenience with this declaration, Exhibit A.

44 Cross-interrogatories:

I. X. To the first cross-interrogatory he answers and says:

The position that I held was that of maestro mayor de bahia or harbor master of the port of Havana.

II. X. To the second cross-interrogatory he answers and says:

No; I had no official records to keep, but made reports to the captain of the port in the case of each vessel, respecting her inspection, valuation, expense of repairing, etc., and such reports should be of record in the office of the captain of the port.

JUAN LLURIA.

Answered under oath and subscribed before me at Havana this 28th day of August, 1900.

JOSEPH A. SPRINGER,
Commissioner.

[Translation.]

I, the undersigned, Juan Lluria y Pujadas, harbor master of the port of Havana, and expert appointed by Messrs. Vilar, Senra & Co. and Bengochea & Co. to appraise the value of their respective fishing smacks in the condition in which they were in the first day of March, of this year,

Do hereby certify that, owing to the constant inspection which I make of these vessels in my official capacity, the fishing smack "Poder de Dios" registered folio 2167, of 58 tons burden, wooden hull, schooner rigged, rigging tight and staunch, sails and gearing complete, with necessary iron ballast, capstan, two anchors and chains, galley caboos' and outfit, sailing compass, lanterns and side lights, and other appurtenances, and one boat with equipments, all in good condition, I appraise in the sum of $6,500 Spanish gold.

* * * * * * *

In testimony whereof I have issued this certificate at Havana the twenty-third day of November, eighteen hundred and ninety-eight.

[SEAL.] (Signed) JUAN LLURIA.

45 I certify the foregoing to be a faithful translation from the Spanish language of that part of the official certificate of appraisement annexed to answers of above witness to commission in the case of "Antonio y Paco," and referring to the vessel named in this commission, the "Poder de Dios.

JOSEPH A. SPRINGER,
Commissioner.

EXHIBIT "A."

At the execution of a commission for the examination of witnesses between the United States vs. "Poder de Dios" Jose Bengochea, claimant, this paper marked "Exhibit A" was produced and shown to the witness Juan Lluria Pujadas and by him deposed unto and subscribed at the time of this examination before me.

JUAN LLURIA.

JOSEPH A. SPRINGER,
Commissioner.

FRANCISCO GANDON:

I. To the first interrogatory, the said Francisco Gandon answers and says as follows:

My name is Francisco Gandon y Ramirez; I am 71 years of age; I am engaged in the fishing business; that was my occupation and I resided at Havana during the months of April and May, 1898.

II. To the second interrogatory he answers and says:

Yes; I bought and sold fresh and salted fish during the months of April and May 1898, and was familiar with the market prices of fish,

fresh and salted, during said period; salted fish were sold at Havana during said months, at $10 (ten dollars) Spanish silver per quintal and fresh fish were sold at the same price, $10 (ten dollars) silver per qq. These were market rates.

III. To the third interrogatory he answers and says:

46 Before the blockade was declared, fresh fish were sold at $7 (seven dollars) silver per quintal, and salted at $3.50 to $4 (three and one-half to four dollars) silver per quintal. These prices gradually rose as soon as the blockade was declared to $10 silver per quintal. Live or fresh fish were never lacking, as it was supplied from the south coast via Batabano, while salted fish became very scarce

FRANC. GANDON.

Answered under oath and subscribed before me, at Havana, this 27th day of Aug., 1900.

JOSEPH A. SPRINGER,
Commissioner.

ANTONIO SUAREZ:

I. To the first interrogatory, the said Antonio Suarez answers and says as follows:

My name is Antonio Suarez y Alvarez. Am 34 years of age; I am engaged in commerce, as a member of the firm of Vilar, Senra & Co. That was my occupation at the time mentioned in April and May, 1898, and I resided then as now, in this city at No. 2. Enna st.

II. To the second interrogatory he answers and says:

As a member of said firm of Vilar, Senra & Co., I bought and sold fresh or live fish and salted fish and was familiar with the market prices of fresh and salted fish in Havana, during said months of April and May, 1898. The prices at that time were $10 (ten dollars) silver per quintal, of fresh or live fish, and salted fish was sold by my firm at $10 (ten dollars) Spanish gold per quintal.

III. To the third interrogatory he answers and says:

During all the period mentioned, April and May, 1898, live or fresh fish were abundant and never wanting in supply, because it was brought from Batabano. During previous years the usual market price

47 for fresh fish was $7 (seven dollars) Spanish silver per quintal, and for salted fish from three to four dollars, Spanish silver per quantal. On account of the blockades established by the United States about April 21st, the price of fresh fish gradually rose to the price that I have quoted, as also salted fish increased in price. I have given the highest market rates, as the prices of all kinds of provisions gradually rose at that period.

ANTONIO SUAREZ.

Answered under oath and subscribed before me at Havana, this 25 day of Aug., 1900.

JOSEPH A. SPRINGER.

CITY OF HABANA,
Island of Cuba:

Be it remembered that, on the days and year within mentioned, before me, the undersigned, personally came Messrs. Jose Bengochea, Juan

Lluria y Pujadas, Francisco Gandon, and Antonio Suarez, the witnesses named in the commission, who having been duly sworn, did, on the said days, answer all and singular the interrogatories, direct and cross, to said commission attached, and the answers by them respectfully made were by me correctly taken down and then read over to said witnesses and subscribed by them.

I further certify that the interrogatories were made to the witnesses in the Spanish language, by them answered in said language, reduced to writing in English, and read to them in Spanish by me, the commissioner, with which language I am familiar, and by them ratified and subscribed.

In witness whereof, I have hereunto set my hand and affixed my seal at the city of Havana, the 29 day of August, A. D. 1900.

JOSEPH A. SPRINGER,
Commissioner.

49 JOHN F. HORR, being duly sworn on behalf of the United States, testified as follows:

* * * * * * *

52 53 Q. Now, do you remember the "Poder de Dios?"

A. Only in a general way.

Q. How much did she sell for?

(Same objection.)

A. My recollection is a little over a thousand dollars. A thousand and ten dollars she sold for.

Q. She is valued by the owner at four thousand dollars; do you consider that a fair price for her?

(Objected to as immaterial and irrelevant, as applied to American value, and also because sufficient foundation has not been laid for the question.)

A. I consider it excessive, estimating the value in this country.

Q. What would you consider a fair price for her from your recollection of her condition?

(Same objection.)

A. Now, I suppose you mean, to Key West, don't you?

Q. Yes, sir.

54 A. I would say twenty-five hundred dollars. I don't recollect the exact condition of this boat; some of them were run down and some in pretty good condition. It is hard for me to distinguish at this time.

* * * * * * *

69 WILLIAM D. CASH, a witness in behalf of the United States, being first duly cautioned and sworn, testified as follows:

* * * * * * *

70 Q. Do you know the fishing smacks known as the "Poder de Dios" and the "Antonio y Paco?"

A. Yes, sir; I knew these two as sold.

Q. Did you, or the firm of which you were a member, purchase the smacks just named by me?

A. The firm of Cash & Curry purchased the smacks "Antonio y Paco" and "Poder de Dios."

Q. At what prices?

A. "Antonio y Paco," $1,910; and the "Poder de Dios," $1,010.

Q. Did you, prior to the purchase or subsequently, ever make an examination of said vessels for said firm?

A. A few days prior to the sale, Mr. Curry and myself went on board of these smacks, made an examination as to their condition and what we thought was their value for purchase.

Q. State what you found to be the condition of said vessels from your examination.

A. From examination we found that the two vessels were in a very fair condition; one of them "Antonio y Paco," was of more value
71 than the "Poder de Dios;" then we determined when the sale came off what prices we would pay for the one and the other.

Q. From your knowledge of the values of sailing vessels, would you say that the prices paid by you for said vessels, respectively, were the fair purchase prices?

A. We concluded, at least we set a price that we thought each one was worth, and at the time of the sale probably the whole brought less than we expected to pay for them as a matter of speculation if the fishing business opened to them.

Q. Then, I understand you to say, that you paid, approximately, the prices which, upon examination, you had concluded would be fair purchase prices for your purposes?

A. Over, either for speculation or put them into the business.

Q. Did you sell those vessels?

A. We sold them.

Q. At what prices?

A. We sold the "Antonio y Paco" for $2,900, and we sold the "Poder de Dios" for $1,500.

Q. Do you know the amount expended for repairs on said vessels?

A. I do not know from memory, but can tell.

Q. From the books?

A. I can tell exactly from the books.

Q. Was there any competition at the sale of these vessels?

A. Yes, there was considerable competition.

Q. When you examined these vessels did you find that any repairs would be necessary to put them in proper condition for use of sailing?

72 A. To change the speculation we found that it would be necessary to make some repairs, but for matter of sailing we had not considered that proposition whether we should repair them or not, if so it would be necessary to make some repairs.

Q. Do you recollect the tonnage?

A. I do not know.

* * * * * * *

86 WILLIAM B. CURRY, a witness produced on behalf of the United States, being first duly sworn, deposes and says:

* * * * * * *

87 Q. Were you a member of the firm of Cash & Curry?

A. Yes, sir.

Q. Did you recollect the sale of the fishing smacks captured as prizes during the Spanish-American war?

A. Yes, sir.

Q. Do you recollect about when that was?

A. In 1898.

Q. Do you know the vessels bought by that firm?

A. Yes; the "Poder de Dios" and the "Antonio y Paco."

Q. What were the prices paid for them?

A. For the "Poder de Dios," $1,010.00, and for the "Antonio y Paco," $1,910.00.

Q. Did you make an examination of these vessels at or near the time of purchases?

A. Yes, sir.

Q. What was their condition?

A. The "Poder de Dios" was in a fair condition, and the other one, "Antonio y Paco," was in a good condition also.

Q. Were any repairs to these two vessels made by your firm?

A. There were no repairs made that I remember of.

Q. Were they not put in good condition before they were sold?

A. They were put on the ways, cleaned, and painted.

88 Q. Can you state about the cost of all these repairs?

A. No; unless I refer to the books of the store.

Q. Have you any idea?

A. No, sir.

Q. From your knowledge of the value of sailing vessels, what would you say was the value of these at the time you purchased them?

A. The "Poder de Dios," I suppose, was worth $2,800.00, and the "Antonio y Paco" was worth, according to the business conditions existing—she was worth not more than we paid for her. At that time we paid $1,910.00.

Q. What would you say was her full value?

A. She was worth about $4,000.

Q. Under the business conditions existing, what was her value?

A. What we paid for her.

Cross-examination:

Q. Does the firm of Cash & Curry still own these vessels, or are these vessels sold?

A. They are sold.

Q. When did they sell them?

A. A few months after the purchases of them.

Q. Why did they sell them?

A. On account of lack of employment for them.

Q. Why did you purchase these two vessels?

A. We purchased them—that is, under the impression that after the war was over that American vessels would be allowed to fish in Cuban ports, not having to pay a duty on fish more than vessels of other nationalities.

Q. How much did you get for the "Antonio y Paco?"

A. $2,900.00.

Q. How much for the "Poder de Dios?"

A. $1,500.00.

Q. Did you ever buy and sell fishing smacks?
A. No, sir.

89 Redirect examination:

Q. Were the vessels in, small sailing vessels?

A. I traded in a small one, about fifteen tons, as far as I can remember; the other was sixty-four tons, and the other one owned was about one hundred seventeen tons.

* * * * * * *

98 United States district court, southern district of Florida.

THE UNITED STATES
vs.
THE SCHR. "PODER DE DIOS" AND CARGO, Jose Bengochea, claimant, on behalf of owners and crew. } Prize No. 23.

Having been appointed by decree of said court, by request of parties, to ascertain and report to the court the amount of damages to be recovered by the claimant herein, in conformity with the decree of said court of April 5th, 1900, and with the opinion and decree of the U. S. Supreme Court in the case of the U. S. vs. The "Lola," dated Jan. 29th, 1900, I would respectfully report that upon examination and consideration of the proofs filed, testimony taken, and evidence of record and on file in said court, I found the amount of damages to be recovered by the claimant herein to be as follows, i. e.:

Value of vessel	$6,500.00	
Cargo, 130 kintals fish, $5	650.00	
		$7,150.00
Interest on do. at 8 % from date of capture, May 7th, 1898, to Nov. 2nd, 1901		1,995.64
		9,145.64
Less proceeds already returned claimant		660.09
		8,485.55
And expenses of issuing commission and executing commission in Havana		21.75
Total		8,507.30

I also file herewith the testimony taken herein, and a report showing my proceedings under the order appointing me, and the method of arriving at the result above.

I also append my bill for services under said order, and request its approval and settlement.

Respectfully,

E. O. LOCKE,
U. S. Commissioner, specially appointed.

Nov. 2d, 1901.

110 At a stated term of the United States district court for the southern district of Florida, held in the court rooms in the Federal building in the city of Jacksonville on the 16th day of June, 1902.

Present: Honorable James W. Locke, district judge.

THE UNITED STATES
vs.
THE "PODER DE DIOS," JULIAN BENGOCHEA and Francisco Gonzalez, claimants.

An interlocutory decree having been entered herein on or about April 5, 1900, directing, among other things, that the libel be dismissed and that the proceeds of the sale of the above-named vessel, together with the proceeds of any sale of her cargo, be restored to the claimants with compensatory damages and with costs, the question whether such damages and costs should be charged against the United States and the naval captors or apportioned between the United States and the naval captors being reserved for further consideration on the coming in of the commissioner's report as to the amount of such damages, and providing that it be referred by request of the parties to Eugene O. Locke, esq., United States commissioner, to ascertain and report to the court with all convenient speed the amount of the compensatory damages to be recovered by the claimants herein,

And the said commissioner having, on or about November 2, 1901, reported the amount of the compensatory damages to be recovered by the claimants herein at the sum of $\$8,507\frac{30}{100}$, as will more fully appear from his report on file,

And the exceptions to the said report filed on behalf of the United States having been overruled, and the said report having been duly confirmed by an order entered herein on or about May 19, 1902, which also awarded $25 costs to the claimants in addition to the damages
111 found by the commissioner,

And the owners of the said vessel, at the time of her capture, having been substituted in place of her master, as claimants of the said vessel, by an order of this court entered on or about May 19, 1902,

And due notice having been given to the United States and to the counsel for the naval captors of a further hearing on the question whether the damages awarded shall be charged against the United States, or against the naval captors, or apportioned between the United States and the naval captors, as provided in the interlocutory decree hereinbefore referred to,

Now, on motion of Convers & Kirlin, proctors for the claimants, and after hearing the attorney for the United States and the attorneys for the naval captors, it is

Ordered, adjudged, and decreed, that the claimants, Julian Bengochea and Francisco Gonzalez, have, receive, and recover from the United States, the libellant herein, the sum of $\$8,507\frac{30}{100}$, the amount of the compensatory damages suffered by the said claimants by reason of the unlawful capture, condemnation, and sale of the said vessel "Poder de

Dios" and her cargo herein, together with the further sum of $25 costs, and interest on the amount of the damages from November 2, 1901, the date of the said commissioner's report, to June 16th, 1902, amounting to the sum of $419\frac{54}{100}$, making in all the sum of $8,951\frac{84}{100}$, with interest thereon until paid.

JAMES W. LOCKE,
U. S. District Judge.

* * * * * * *

(Indorsement on cover:) Office Supreme Court of U. S. Received Oct. 7, 1902. File No. 18808. S. Florida D. C. U. S. Term No. 580. The United States, appellant, *vs.* The Fishing Smack "Poder de Dios," Julian Bengochea et al., claimants. Filed January 31, 1903.

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36417

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 580. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "PODER DE DIOS," ETC.;

No. 581. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "ANTONIO Y PACO," ETC.;

No. 582. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "ENGRACIA," ETC.;

No. 583. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "SEVERITO," ETC.;

No. 584. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "ANTONIO SUAREZ," ETC.;

No. 585. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "FERNANDITO," ETC.;

No. 586. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "ORIENTE," ETC.;

No. 587. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "ESPANA," ETC.;

No. 588. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "CUATRO DE SETIEMBRE," ETC.; AND

No. 589. THE UNITED STATES, APPELLANT, v. THE FISHING SMACK "SANTIAGO APOSTOL," ETC.

STIPULATION AS TO FACTS.

FILED MARCH 13, 1903.

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STIPULATION AS TO FACTS.

It is hereby stipulated that the following facts appear in the original transcripts herein, viz:

580.

The "Poder de Dios."

The "Poder de Dios" was seized by the U. S. ship "Newport," Commander B. F. Tilley, commanding, on May 7, 1898. The said
2 "Poder de Dios" is a fishing smack about 54 feet long on the keel, and of 56 tons burden, and at the time of capture carried as cargo 13,000 pounds of live fish and 80 kintals of salt fish.

No. 581.

The "Antonio y Paco."

The "Antonio y Paco" was seized by the U. S. ship "New York," Commander B. F. Tilley, U. S. N., commanding, on May 2, 1898. The said "Antonio y Paco" is a fishing smack about 57 feet long on the keel and of 46 tons burden, and at the time of capture carried as cargo 15,000 lbs. of live fish.

No. 582.

The "Engracia."

The "Engracia" was seized by the U. S. ship "Newport," Commander B. F. Tilley, commanding, on April 26, 1898. The said "Engracia" is a fishing smack, about 60 feet long on the keel and of 43 tons burden, and at the time of capture carried as cargo 12,000 lbs. of live fish and 20 kintals of salt fish.

No. 583.

The "Severito."

The "Severito" was seized by the U. S. ship "Newport," Commander B. F. Tilley, commanding, on May 9, 1898. The said "Severito" is a fishing smack about 50 feet long on the keel and of 35 tons burden, and at the time of capture carried as cargo 5,000 lbs. of live fish and 15 kintals of salt fish.

No. 584.

The "Antonio Suarez."

The "Antonio Suarez" was seized by the U. S. ship "Uncas," Lieut. F. R. Brainard, commanding, on May 3, 1898. The said "An-
3 tonio Suarez" is a fishing smack about 54 feet long on the keel and of 40 tons burden, and at the time of capture carried as cargo 5,000 lbs. of live fish.

No. 585.

The "Fernandito."

The "Fernandito" was seized by the U. S. ship "Vicksburg," Commander A. B. H. Lillie, commanding, on May 7, 1898. The said "Fernandito" is a fishing smack about 45 feet long on the keel and of 35 tons burden, and at the time of capture carried as cargo 9,000 lbs. of live fish and 40 kintals of salt fish.

No. 586.

The "Oriente."

The "Oriente" was seized by the U. S. ship "Vicksburg," Commander A. B. H. Lillie, U. S. N., commanding, on May 5, 1898. The

said "Oriente" is a fishing smack about 60 feet long on the keel and of 45 tons burden, and at the time of capture carried as cargo 9,000 lbs. of live fish and about 3,000 pounds of salt fish.

No. 587.

The "Espana."

The "Espana" was seized by the U. S. ship "Newport," B. F. Tilley, U. S. N., commanding, on May 7, 1898. The said "Espana" is a fishing smack about 60 feet long on the keel and of 80 tons burden, and at the time of capture carried as cargo 18,000 pounds of live fish and 45 kintals of salt fish.

4 No. 588.

The "Cuatro de Setiembre."

The "Cuatro de Setiembre" was seized by the U. S. ship "Helena," Commander W. T. Swinburne, commanding, on April 27, 1898. The said "Cuatro de Setiembre" is a fishing smack about 60 feet long on the keel and of 30 tons burden, and at the time of the capture carried as cargo 15,000 pounds of live fish.

No. 589.

The "Santiago Apostol."

The "Santiago Apostol" was seized by the U. S. ship "Mayflower," Commander M. R. S. Mackenzie, U. S. N., commanding, on May 8, 1898; the said "Santiago Apostol" is a fishing smack about 78 feet long on the keel and of 70 tons burden, and at the time of capture carried as cargo 19,000 pounds of live fish and 100 kintals of salt fish.

HENRY M. HOYT,
Assistant Attorney-General, Counsel for the Appellants.
J. PARKER KIRLIN,
Counsel for the Appellees.

5 (Indorsed:) File No. 18808, &c. Supreme Court U. S., October term, 1902. Term No., 580 to 589. The United States, appellant, vs. The "Poder de Dios," et al. Stipulation as to facts. Filed March 13, 1903.

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